

E-filed 11/1/2016

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CYWEE GROUP LTD,  
Plaintiff,  
v.  
APPLE INC.,  
Defendant.

Case No.14-cv-01853-HSG (HRL)

**ORDER GRANTING IN PART AND  
DENYING IN PART PLAINTIFF'S  
ADMINISTRATIVE MOTION TO FILE  
UNDER SEAL**

Re: Dkt. No. 104

Pending before this Court is the Administrative Motion by Plaintiff CyWee Group, Ltd. ("CyWee") to file under seal certain exhibits to the declarations of Ari Rafilson, Zhou Ye, and Shun-Nan Liu. Dkt. No. 104. These declarations were filed in support of CyWee's Motion for Administrative Relief to modify the briefing schedule and augment the papers related to its Motion to Amend/Correct Infringement Contentions. Dkt. Nos. 98, 103. Having considered the motion, the Court grants it with respect to some of the documents requested to be filed under seal and denies it in part with respect to others, as detailed below.

The courts recognize a common-law right of access to public records, and a strong presumption in favor of public access exists. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1134-35 (9th Cir. 2003). This right of access, however, is not absolute, and can be overridden. *Id.* at 1135. The party seeking to seal judicial records bears the burden of overcoming the presumption in favor of access. *Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006).

The court applies one of two standards in evaluating motions to seal: the lower good cause standard, which applies to non-dispositive matters, and the more stringent compelling reasons standard, which applies to dispositive matters. *See Luo v. Zynga, Inc.*, No. 13-cv-00186 NC, 2013 WL 5814763, at \*1-2 (N.D. Cal., Oct. 29, 2013). Under the good cause standard, the party must make a "particularized showing" that "specific prejudice or harm will result" if the document is

not filed under seal. *Id.* at \*1 (quoting *San Jose Mercury News, Inc. v. U.S. Dist. Court. N. Dist. (San Jose)*, 187 F.3d 1096, 1103 (9th Cir. 1999)). Under the compelling reasons standard, the party seeking disclosure must “‘articulate[] compelling reasons supported by specific factual findings’ . . . that outweigh the general history of access and the public policies favoring disclosure . . . .” *Kamakana*, 447 F.3d at 1178-79 (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003) (citations omitted)).

A motion to amend infringement contentions is a non-dispositive motion, and so the less stringent good cause standard applies to this motion to seal. *See Finjan Inc. v. Proofpoint, Inc.*, No. 13-cv-05808, 2015 WL 9023164, at \*2 (N.D. Cal. Dec. 16, 2015); *Angioscore, Inc. v. TriReme Medical, Inc.*, No. 12-cv-03393-YGR, 2015 WL 75187, at \*2 (N.D. Cal. Jan. 6, 2015); *Mediatek Inc. v. Freescale Semiconductor, Inc.*, No. 11-cv-5341 YGR, 2013 WL 10996547, at \*1 (N.D. Cal. May 10, 2013).

The court has reviewed CyWee’s sealing motion and declaration in support thereof. The court finds that CyWee has established good cause to seal the following documents:

1. Rafilson Declaration, Exhibit B
2. Rafilson Declaration, Exhibit C
3. Rafilson Declaration, Exhibit D
4. Liu Declaration, Exhibit B
5. Liu Declaration, Exhibit C
6. Liu Declaration, Exhibit E
7. Liu Declaration, Exhibit F
8. Ye Declaration, Exhibit B
9. Ye Declaration, Exhibit C
10. Ye Declaration, Exhibit E
11. Ye Declaration, Exhibit F
12. Ye Declaration, Exhibit H
13. Ye Declaration, Exhibit I
14. Ye Declaration, Exhibit J

1 CyWee has not, however, established good cause to seal the entirety of each of the  
2 following documents, for the reasons explained below:

- 3 1. Liu Declaration, Exhibit A
- 4 2. Liu Declaration, Exhibit D
- 5 3. Liu Declaration, Exhibit G
- 6 4. Ye Declaration, Exhibit A
- 7 5. Ye Declaration, Exhibit D
- 8 6. Ye Declaration, Exhibit G

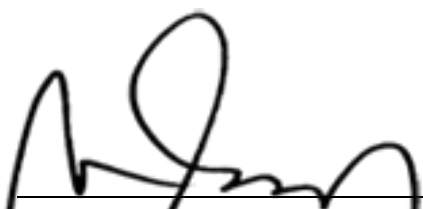
9 The court recognizes that some of the material contained in these latter six exhibits is  
10 suitable for filing under seal. However, much of the content of these documents is not obviously  
11 confidential. For example, Exhibit A to the Liu Declaration is a slide presentation, portions of  
12 which present publicly available information. And a portion of Exhibit D to the Liu Declaration is  
13 included in the Liu Declaration itself, which is not filed under seal.

14 The Civil Local Rules require that requests to file under seal be “narrowly tailored to seek  
15 sealing only of sealable material . . . .” Civil L. R. 79-5(b). Additionally, the good cause standard  
16 requires a “particularized showing” that “specific prejudice or harm will result” if the  
17 documents—or portions of them—are not filed under seal. CyWee has not satisfied the narrow  
18 tailoring requirement, and it has not shown good cause for sealing the entirety of the six identified  
19 documents.

20 Pursuant to Civil Local Rule 79-5(f)(3), CyWee shall have seven days from the date of this  
21 order either to file revised redacted versions of the six documents identified above or to file the  
22 whole of these six documents on the public docket. CyWee’s motion to file under seal is granted  
23 with respect to the other 14 documents.

24 **IT IS SO ORDERED.**

25 Dated: 11/1/2016

26  
27  
28   
HOWARD R. LLOYD  
United States Magistrate Judge